



STANDARDS COMMITTEE

October, 2005

**AGENDA
ITEM:**

Recommendations of the Standards Board for England on the Code of Conduct.

Summary of report:

The report advises the Committee on the recommendations of the Standards Board for England (SBE) to the Office of the Deputy Prime Minister (ODPM) following the consultation exercise on the Code of Conduct for Elected Members (the code).

Background Papers:

All published.

Analysis of the code of conduct consultation for the Standards Board of England

Recommendations

- (1) That the contents of the report be noted.

Signed:

Assistant Director of Legal Services

Date September 2005

Financial implications

There are no financial implications arising from this report.

Equality opportunity implications

There are no equality implications arising from this report.

Environment Impact

None.

Legal implications

There are no legal implications arising from this report..

Other policy implications

The new ethical framework is a key part of the Local Government Act, 2000, and is integral in the wider modernisation agenda.

Contact Officer:

Bhupinder Gill (01922 654820)

1. Earlier this year the Standards Board for England (SBE) produced a consultation paper seeking responses to 26 questions that it posed upon the Code of Conduct for elected members. This Standards Committee held a special meeting convened over two days in June 2005 to consider the questions and submitted its responses prior to the deadline.
2. The views of this committee are set out in minutes of the committee attached as appendix 1.
3. The SBE received approximately 1200 responses to the consultation exercise of which approximately 500 were anonymous. The University of Teesside has analysed the responses to the consultation and has produced a report, which is attached as appendix 2.
4. Upon consideration of the responses the SBE has made a number of recommendations to amend the code of conduct to the ODPM. The recommendations are set out in appendix 3.
5. A presentation will be made to the committee which will seek to bring together the salient points from the 3 attachments.

Appendix 1

SPECIAL STANDARDS COMMITTEE

Monday 6 June 2005 at 6.00 p.m.

Review of the Members Code of Conduct

Resolved

That the Assistant Director of Legal Services and Monitoring Officer be requested to forward the following comments in response to the questions asked in the consultation document on the review of the Members Code of Conduct undertaken by the Standards Board for England:-

The general principles

1. *Should the ten general principles be incorporated as a preamble to the Code of Conduct?*

Response: The ten principles should be incorporated into the preamble to the Members Code of Conduct.

2. *Are there any other principles which should be included in the Code of Conduct?*

Response: Yes, reference should be made to the exercise of discretion and the requirement to treat everyone as your neighbour.

Disrespect and freedom of speech

3. *Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?*

Response: No definition of disrespect is needed. Each case should be considered on its own merit.

4. *Should the Code of Conduct include a specific provision on bullying? If so, is the Acas definition of bullying quoted in the full consultation paper appropriate for this?*

Response: Yes the Code of Conduct should include a specific provision on bullying and the following amended Acas definition is suggested:

“Bullying may be characterised as a pattern or an incident of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine an individual or a group of individuals gradually eroding

their confidence and capability which may cause them to suffer stress.”

Confidential information

5. *Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?*

Response: Members could not decide on this matter, a number of views were expressed, some in support of an explicit public interest defence for members who have disclosed confidential information and some against such a defence.

6. *Do you think the Code of Conduct should cover only information which is in law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?*

Response: Yes, the Code of Conduct should cover only information which is in law defined as “exempt” or “confidential”.

Disrepute and private conduct

7. *Should the provision relating to disrepute be limited to activities undertaken in a member’s official capacity or should it continue to apply to certain activities in a member’s private life?*

Response: The existing test used in the Code of Conduct is appropriate, it is important that there is linkage to the member’s public role.

8. *If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?*

Response: The existing test used in the Code of Conduct is appropriate, it is important that there is linkage to the member’s public role.

Misuse of resources

9. *We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?*

Response: Yes, but it is very difficult to define “inappropriate political purposes” except in cases of electioneering.

10. *If so, how could we define “inappropriate political purposes”?*

Response: It is very difficult to define “inappropriate” political purposes except in cases of electioneering.

11. *Is the Code of Conduct right not to distinguish between physical and electronic resources?*

Response: The issuing of a model protocol by the Standards Board for England on the use of resources would be welcomed.

Duty to report breaches

12. *Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether, or somehow narrowed?*

Response: The provision that requires members to report breaches of the Code by fellow members should be narrowed and relate only to when a member is acting in a public capacity.

13. *If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code?*

Response: The provision in the Code should be narrowed and relate only to when a member is acting in a public capacity. Allegations should be in writing and signed by the party who is alleging the breach of the Code.

14. *Should there be a further provision about making false, malicious or politically-motivated allegations?*

Response: There is a need to reduce the making of false, malicious or politically motivated allegations. Proposals to deal with this matter in the preamble in the Code of Conduct would be ineffective as the preamble is not part of the Code.

15. *Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?*

Response: There is sufficient protection for complainants against intimidation as the addition of further clauses might not be effective. Whether the existing protection for complaints against intimidation provides an effective deterrent is an open question.

ADJOURNED STANDARDS COMMITTEE

Friday 10 June 2005 at 5.00 p.m.

Review of the Members Code of Conduct

Resolved

That the Assistant Director of Legal Services and Monitoring Officer be requested to forward the following comments in response to the questions asked in the consultation document on the review of the Members Code of Conduct undertaken by the Standards Board for England:-

Personal interests

16. *Do you think the term "friend" requires further definition in the Code of Conduct?*

Response: The term in the Code friend does not require definition.

17. *Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?*

Response: Yes, the personal interest test should be narrowed so that Members do not have to declare interests shared by a substantial number of other inhabitants in an Authority's area.

18. *Should a new category of "public service interests" be created relating to service on other public bodies and which is subject to different rules of conduct?*

Response: Yes, the Code should include a new category of "public service interest" relating to service on other public bodies.

19. *If so, do you think service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?*

Response: Public service interests which are not prejudicial and which appear in the public register of interests should be declared at meetings as this aids open and transparent governance.

20. *Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?*

Response: Given that the Committee support the creation of a public service interest for inclusion in the Code, it is consistent to support the proposal to remove the limited exemptions from the prejudicial interest rules set out at Paragraph 10(2) a - c of the Code.

21. *Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?*

Response: Yes, this proposal is supported, Members could speak but withdraw from the meeting prior to the vote.

Prejudicial interests

22. *Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?*

Response: Yes, this proposal is supported, Members should declare the nature of the prejudicial interest be allowed to address the meeting but withdraw prior to the vote being taken.

23. *Do you think members with prejudicial interests should be allowed to contribute to the debate before withdrawing from the vote?*

Response: Yes, this proposal is supported, the Member should declare the nature of the prejudicial interest, be allowed to contribute to the Committee debate and then withdraw from the meeting before the vote is taken.

Registration of interests

24. *Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?*

Response: Areas of sensitive employment should only be declared to the monitoring officer and not entered in the public register of interests. The Standards Board for England is requested to provide guidance on what constitutes "sensitive employment".

25. *Should members be required to register membership of private clubs and organisations? And if so, should it be limited to organisations within or near an authority's area?*

Response: Membership of private clubs and organisations by Councillors should not be required to be registered, accordingly, the Members Code of Conduct should be left unaltered in respect of this proposal.

Gifts and hospitality

26. *Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?*

Response: Yes, as this aids transparency.

27. *Should members also need to declared gifts and hospitality that are declined?*

Response: No, there is no need to declare gifts and hospitality which are declined.

28. *Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?*

Response: Those gifts which individually are under £25, but cumulatively are over £25 and which are from the same source over a period of twelve months should be recorded.

29. *Is £25 an appropriate threshold for the declaration of gifts and hospitality?*

Response: No, the threshold for the declaration of gifts and hospitality should be £50 and this should be index linked.

Appendix 2.

Analysis of the Code of Conduct Consultation for The Standards Board for England

Final Report

Professor Alan Lawton
Dr Michael Macaulay



16 August 2005

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Code of Conduct Consultation

University of Teesside

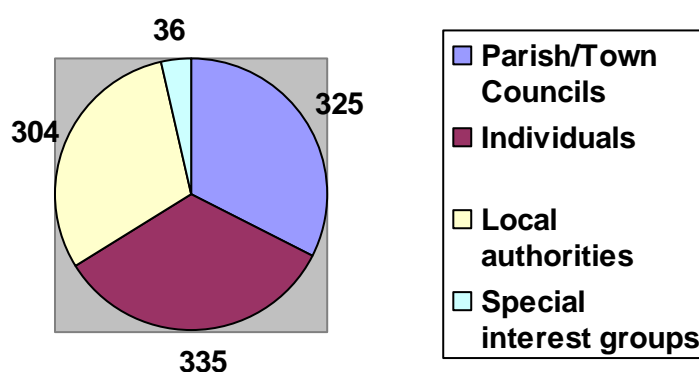
Introduction

This analysis is based on a sample of 1000 respondents, which have been grouped into four categories (see figure 1)¹:

- parish/town councils (325 responses)
- individuals (335 responses)
- local authorities (304 responses)
- special interest groups (36 responses)

The sample was selected on the basis of a number of methodological issues that arose throughout the analysis (see appendix 1).

Figure 1: Respondent categories



Results are based on the *valid* percentage of respondents, i.e. those respondents who actually offered an answer. These figures, along with the *actual* percentage (calculated from the total sample in each category), are shown for each answer in appendix 2.

It must be noted that the overall *significance* of responses must ultimately be interpreted by The Standards Board for England. For the purposes of this report we consider any group of answers over 70% or below 30% to be significant. Clearly these parameters may be subject to change, however, especially if there are perceived discrepancies between, for example, valid and actual percentages.

¹ Approximately 1200 responses were received from the consultation process, approximately 500 of which were anonymous. A sample of 1000 was selected to prevent the problem of duplicating data (see Appendix 2).

The general principles

Q1. Should the ten general principles be incorporated as a preamble to the Code of Conduct?

Less than 5% of the total survey population disagreed with the proposition, although warnings were offered not to rely too heavily on the principles themselves. One respondent, for example, suggested that:

Whilst it would be valuable to annex the Principles to the Code in order to set the context for the Code and as an aid to interpretation, it is fundamentally important that the Principles do not form part of the Code itself ... The present Code may not be a perfect bit of drafting but it is reasonably definite. The general principles are precisely that – general principles – and they are completely unsuited for use as part of a code itself. Just applying the principles of natural justice and Article 6 of the Human Rights Act, a person accused must be able to know what the charges are against him/her. The general principles are so general and subjective that they cannot form the basis of a charge (Peter Keith-Lucas).

In general, however, the proposition of incorporating the general principles as a preamble to the Code of Conduct gained strong support across all four categories (see appendix 1) and was supported by 95% of all those respondents who responded to this question.

Q2. Are there any other principles that should be included in the Code of Conduct?

A majority of all respondents – 51% actual percentage – expressly stated that they did not wish to add any further principles to the current list whereas most other respondents simply failed to answer the question. A few alternative principles were advanced, however, including

- **Accessibility** (Billinge Chapel End Parish Council)
- **Active participation** (Anonymous)
- **Caring** (Blackburn with Darwen Borough Council)
- **Clarity** (A Hinst)
- **Common sense** (Anonymous)
- **Confidentiality** (Derwentside District Council)
- **Conscientiousness** (Anonymous)
- **Courtesy** (Oxford City Council)
- **Dedication to public service** (Anonymous)
- **Duty** (Peter Crawley)
- **Empathy** (Lawley-over-Dale Parish Council)
- **Goodwill** (A Taylor)
- **Loyalty** (Wick Parish Council)
- **Reasonableness** (Chesham Town Council)
- **Responsibility** (Heather Brady)
- **Responsiveness** (John Wheeler)
- **Trust** (Jonathan Reed)
- **Unbiased opinions** (North Hykeham Parish Council)

None of these alternative suggestions was offered by more than one candidate, which suggests that the current list is fairly comprehensive and that any additions would simply be geared towards a tiny minority of respondents.

The evidence suggests, therefore, that the general opinion was that the General Principles should not be altered.

Disrespect and freedom of speech

Q3. *Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?*

A small number of respondents suggested that there should be no test at all (one anonymous Parish councillor suggested “scrap this question and the thought behind it – it is simply not needed!”). Approximately one quarter of those who responded (24%) disagreed with the proposition. SOLACE, for example, argued that:

Given that a high percentage of the complaints to the Standards Board involve this issue it should be possible to have a defined statement. Also, having a defined statement would in some cases raise the threshold between what is tolerable and intolerable. It also avoids the argument that some behaviour is acceptable in some authorities but not others. The Code is, after all, a National Code of Conduct and should be promulgated on that basis (SOLACE).

Yet the broad test was supported by 76% of those who responded to this question. Many of these respondents took the view that a more defined test was less workable:

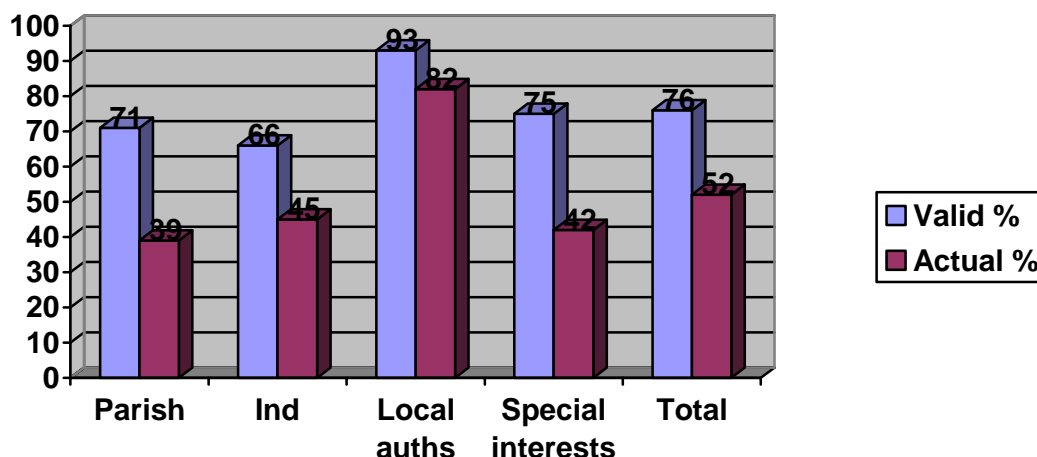
Limiting the definition could lead to greater inflexibility (Watford Borough Council).

‘Disrespect’ may be regarded as a subjective concept. What might be acceptable between experienced Members in the heat of debate might not, in tone or content, be appropriate in a conversation between a member and a member of the public, or a junior officer. A broad test should enable the Standards Board, Adjudication Panel, Standards Committee, or an Ethical Standards Officer to reach a conclusion as to whether, in particular circumstances, conduct or treatment has been ‘disrespectful’ (Greater Manchester Police Authority).

We see the problem about the concept of respect and whether there should be a definition. We can also see that some people because of their cultural background or for other reasons may apply higher standards than the population generally. Any definition could reasonably only refer to a minimum standard and that would be a pity (The Commissioner for Local Administration in England).

One cautionary factor here, however, is the difference between the valid and actual percentage rates for some of the responses. Only the local authority category significantly addressed the question (i.e. with actual % response rates), which may lead to somewhat biased set of responses (see figure 2).

Figure 2: Valid and actual percentages for categories supporting a broad definition of disrespect



Despite this, support for the more defined test was significantly low across all categories and **the evidence suggests, therefore, that there was support for a broad definition of disrespect to be used in the Code of Conduct.**

Q4. *Should the Code of Conduct include a specific section on bullying?*

Q4a. *If so, is the ACAS definition of bullying appropriate for this?*

There was strong support for both of these propositions with support from 80% of those who responded to these questions in each case. Again, however, the questions were only significantly answered by local authorities (see appendix 2).

The proposition concerning the ACAS definition elicited a particularly curious response in that respondents answering either 'yes' or 'no' often cited the same argument in support of their choice. Those respondents who rejected the ACAS definition often did so because it did not go far enough:

The Committee had concerns about the ACAS definition as it relies on there being a pattern of behaviour and does not acknowledge that a one-off act may involve serious bullying and intimidation (Luton Borough Council)

A considerable number of respondents who supported the ACAS definition, however, did so also on the understanding that it did not go far enough:

The ACAS definition of bullying, whilst seen as a sensible first step, is considered by some to be too narrow and should not be restricted to a pattern of behaviour (Swale Borough Council).

As a result of the confusion over the ACAS definition, some respondents offered their own definitions for The Standards Board to consider. Tewkesbury Borough council, for example, suggested the following amended version of the ACAS definition:

Characterised as offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority, whether as a pattern of behaviour or a single occurrence, which attempts to undermine an individual or group of individuals, gradually eroding their confidence and capability, which may cause them to suffer stress (Tewkesbury Borough Council).

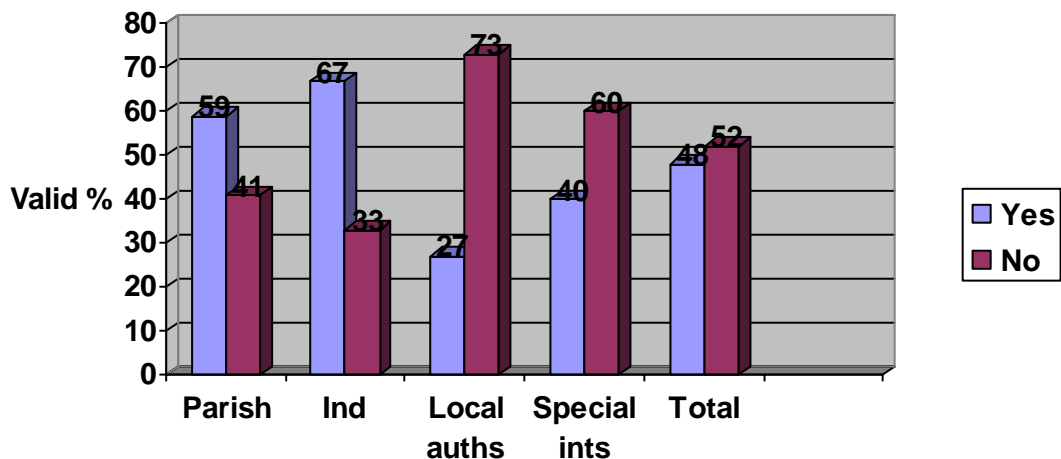
The Standards Board may wish to consider, therefore, including a provision for single incident bullying to supplement the ACAS definition. Such a move would almost certainly bring even further support for a specific section on bullying.

Confidential information

Q5. *Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?*

Two key points emerge from this question. First is that views differ widely between local authorities and special interest groups, and both individual and parish council responses (see figure 3), which may be the result of a larger number of local authorities actually answering the question, but is more likely to reflect genuinely differing perceptions between these groups.

Figure 3: Responses to question 5



On the one hand some respondents thought that it was essential to bring the Code into line with the Freedom of Information Act:

Having regard to the requirements of the Freedom of Information Act, which now require Local Authorities to disclose information unless one or more of a number of specific exemptions apply, there seems to be no reasonable basis for a Member to be penalised for disclosing any information which would have to be disclosed under Freedom of Information Act (Stockport Metropolitan Borough Council).

Others were concerned that an explicit defence would actually work against the Freedom of Information Act:

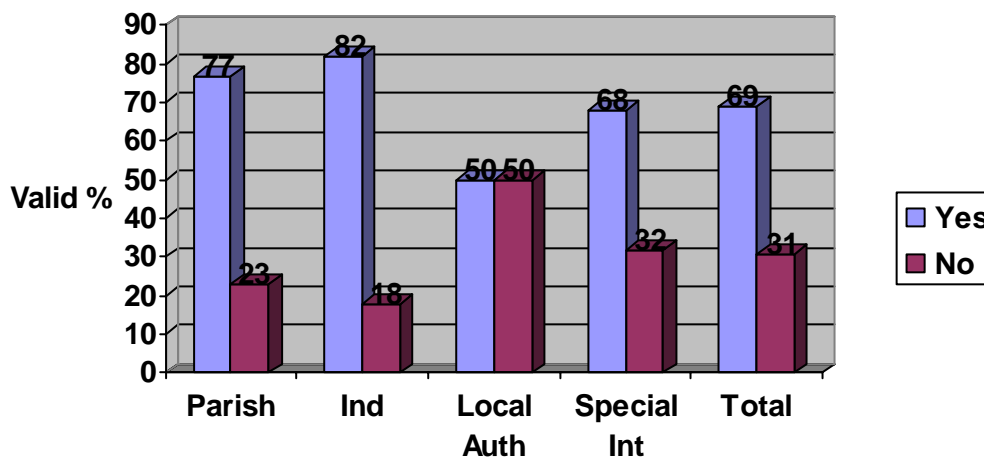
The Freedom of Information regime already requires authorities to apply a public interest test to decide whether or not information should be disclosed. If an authority, after due consideration, have come to the view that information is confidential and that it is not in the public interest to disclose it, then the Authority does not believe that it should be open to a Member to make that information public based on his/her view of the public interest (West Midlands Passenger Authority).

This disagreement highlights the more important point here that the evidence is inconclusive. In terms of those who responded to this question, 52% supported and 48% opposed a public interest defence. In actual percentages, approximately one-third of respondents (33%) agreed with the proposition, another third rejected it (36%), while the final third (31%) ignored it. **The evidence, therefore, suggests that there will be equal opposition to any decision as to whether or not a public interest defence is included in the Code of Conduct.**

Q6. *Do you think the Code of Conduct should cover only information which is in law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?*

Support for this proposition was much clearer (see figure 4), with total support from those who responded at 69%.

Figure 4: Responses to question 6



As mentioned previously, it is for The Standards Boards of England to ultimately decide on significance, but **the evidence suggests that there is considerable support for the proposition that the Code of Conduct should cover only information which is in law “exempt” or “confidential”**.

Disrepute and private conduct

Q7. *Should the provision relating to disrepute be limited to activities undertaken in a member’s official capacity or should it continue to apply to certain activities in a member’s private life?*

There was significant support, from those who responded to this question (76%), for the proposition that disrepute continue to be applied to certain activities in a member’s private life, although this support was often qualified:

It should continue to apply but be restricted to where actions, though private, are in the public eye (Filey Town Council).

The provision relating to disrepute needs specific parameters in regard to one’s private life: e.g. if one’s behaviour undermines the public confidence in their ability to carry out their duties (Birdham Parish Council).

It should continue as now but be restricted to behaviour in a public place (David Milstead).

As holders of a public office, Members should behave impeccably at all times and therefore, the provision should continue to apply to certain activities in a Member’s private life (Simon Quelch, Maldon District Council).

The evidence suggests, therefore that there was substantial support that the provision relating to disrepute should continue to apply to certain activities in a member’s private life.

Q8. *If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?*

There was a very similar response here in favour of the status quo. Although there was a considerable difference in the number of responses from the local authorities and the parish councils (see appendix 2) support remained broad in all categories, and totalled 76% of all those who responded to this question. Typical supporting comments include:

It should continue to be a broad provision. Otherwise there would be no basis for challenging unlawful actions or the general character and suitability to represent local electors of members who become subject to sanctions such as those quoted in the full consultation paper (Oswestry Borough Council).

If conduct in a member’s private life continues to be subject to the disrepute provisions of the Code it should continue to be broadly applied. Any reference to criminal conviction or acknowledged criminal conduct is too restrictive - it is

possible to envisage a number of types of behaviour which might render a member unsuitable for office in the general perception which do not involve 'criminal' behaviour at all, and even more which do involve criminal behaviour but which are not prosecuted (Dorchester Town Council).

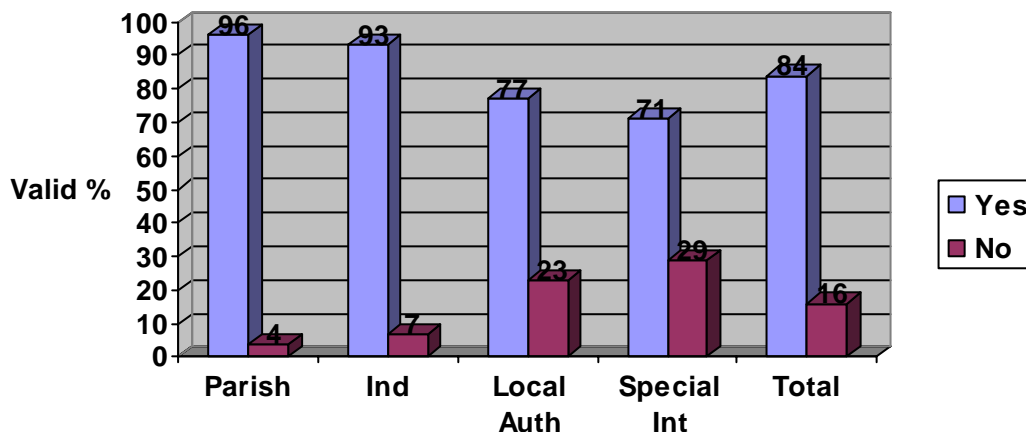
The evidence suggests, therefore, that there was substantial support for the proposition that the provision relating to disrepute should continue to be a broad provision.

Misuse of resources

Q9. *We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?*

Support for this proposition was significant at 84% of all those who responded to this question, and support was also significant in each category (see figure 5).

Figure 5: Responses to question 9



Q10. *If so, how could we define 'inappropriate political purposes'?*

This question received a wide range of answers. Some respondents felt that it was too difficult to make such judgements and suitable provision is already in place:

"Inappropriate political purposes" is both too difficult and too dangerous to define as to deem it necessary to exclude this and that will be OK with the bullying provisions being added, which should cover such abuses (Borough Council of King's Lynn and West Norfolk).

To some extent any definition could lead to a problem that could increase the number of politically motivated complaints being made. There will sometimes be a very fine dividing between where the business of the council ends and inappropriate political purposes begins (Medway Council).

Most respondents who offered an answer, however, were more positive although some also felt that breaches of local protocols should not be subsumed into the Code:

To effectively assimilate local protocols into the Code itself would lead to a lack of uniformity and inconsistency nationally, which would be disadvantageous to the Board in attempting to provide guidance at a national level (Wycombe District Council).

The most common responses were variations on the theme of distinguishing advantages for one particular political party:

- Possibly any activity which is intended purely to promote political party interests (Northumberland County Council)
- Any political purpose would be considered inappropriate to the Parish Council (Barwick in Elmet and Scholes Parish Council)
- Anything purely party political and not connected to the functions of the local authority (Harlow District Council)
- A decision taken where the outcomes can only benefit the aims of a single political party (Dawlish Town Council)
- Party political activities and overt support of pressure groups (Bersted Parish Council)
- Those not necessary for a member carrying out the duty of their office (Harpenden Town Council)
- Anything that uses resources to promote any political view over another (Longhorseley Parish Council)
- Council resources should not be used to pursue the ends of any political party (Midhurst Town Council)
- Where resources are devoted to a political purpose to the detriment of good governance and fair play (Word Town Council)
- Vote rigging as in postal ballots. Undue pressure to vote for any one party (Anonymous).

Another common theme was inappropriate behaviour during election campaigns. Several respondents also suggested that the word “inappropriate” should simply be removed. A small number of respondents offered highly detailed definitions, for example:

“Inappropriate political purposes” is the use of any Council resources, human, physical or electronic, the purpose of which is to

- 1. make mention, directly or indirectly, with or without endorsement of any political parties or the stated or existing or proposed policies of any particular political party locally or nationally of which they approve, or*
- 2. make mention by way of comparisons positively or negatively, on the existing or stated or proposed policies or any other political party, or*
- 3. foster in the public mind directly or indirectly, overtly or covertly, that any actions taken are attributable to the stated or existing or proposed policies of any particular political party, or*
- 4. foster a negative reaction in the public mind directly or indirectly, overtly or covertly, that any actions taken are attributable to the stated or proposed policies of any other political party as a consequence or part of (3) above, or*
- 5. foster the perception that the public should favour a particular political party at any forthcoming elections, whether as a consequence of (1) or (4) above or not.*

(Havant Borough Council)

Due to the wide range of views there is no one definition that suggests itself from the evidence, and therefore The Standards Board for England must take into account the diversity of opinions when drafting a definition.

Q11. *Is the Code of Conduct right not to distinguish between physical and electronic resources?*

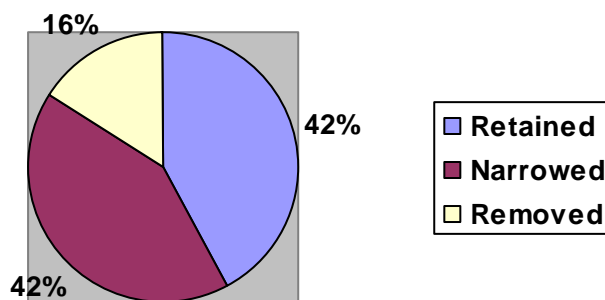
This proposition was supported by a significant total of respondents who gave an answer to this question (94%). **The evidence suggests, therefore, that respondents believed there should be no distinction between physical and electronic resources**

Duty to report breaches

Q12. *Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether or somehow narrowed?*

The evidence clearly shows that support for the removal of this provision was very small at only 16% of those who responded to this question, compared to 42% of respondents who wish to retain the provision in full and a further 42% who wish to see the provision somehow narrowed (see figure 6).

Figure 6: Response to Question 12



Respondents who wish to have the whistle-blowing provision removed altogether generally felt very strongly about their argument:

We believe that, in the complaints that have been submitted to the Board to date, there are numerous examples of political mischief masquerading as self-righteous whistle-blowing, and that this brings the process into disrepute. Reporting alleged breaches should be a matter of conscience rather than prescription and this provision should be deleted (Stockport Metropolitan Council).

However, the evidence certainly indicates that such views are very much in the minority, for all categories concerned. 84% of respondents who expressed an answer, favour retention of the provision in some form, and **the evidence suggests, therefore, that any steps to remove the provision may be met with voluminous opposition.**

Q13. *If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code?*

Respondents who gave an answer overwhelmingly accepted the provisions in the consultation paper of a Member acting in a public capacity, or significant and serious breaches of the code. Other issues included whether or not a Member has knowledge (as opposed to a suspicion) of any wrongdoing, and also whether or not the Monitoring Officer could act as a filtering mechanism for allegations.

The obligation could be narrowed to matters that a particular member has personal knowledge of and if the matter is of a particularly "serious" nature (Birmingham City Council)

The provision should apply to both misconduct in a member's public and personal capacity and to significant breaches of the code (Haringey Council)

It could be reported to a Monitoring Officer or chair of a Standards Committee who could decide whether the complaint was sufficiently serious enough to be sent to the Standards Board (Birdham Parish Council)

The Standards Board need to assess the original evidence – that as many respondents do not want any change to the provision, as those who wish to see the provision narrowed – before they make a final judgement.

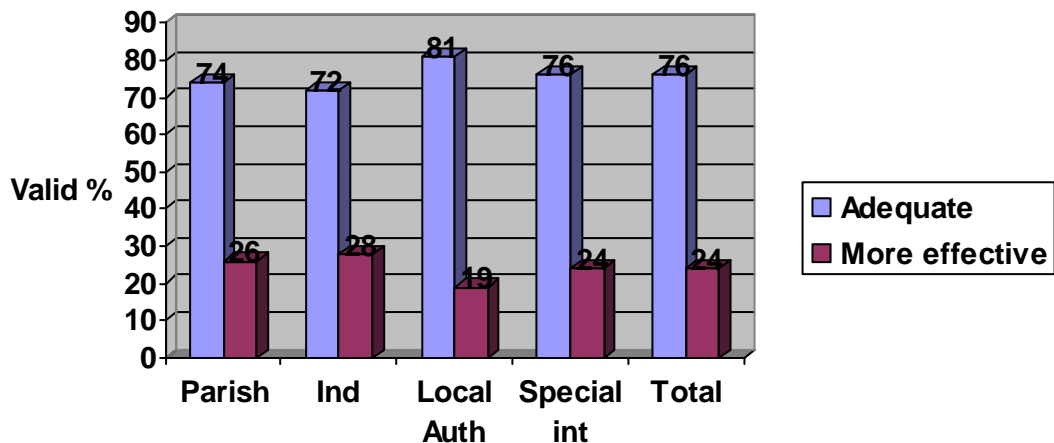
Q14. *Should there be a further provision for making false, malicious or politically motivated allegations?*

Again this provision appears to be generally supported by 61% of those who responded, although it is interesting to note that support is least conclusive among local authorities (see appendix 2). The Standards Board may wish to consider whether or not this is a significant number, however, before making any decision.

Q15. *Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?*

A significant number of those who responded in each category believed that there is already adequate protection against intimidation (see figure 7).

Figure 7: Responses to question 15



The evidence suggests, therefore, that there is no substantial support for further provision on intimidation to be included in the Code of Conduct.

Personal interests

Q16. *Do you think the term 'friend' requires further definition in the Code of Conduct?*

Generally respondents did not feel that there was further need for further definition of the term 'friend': 67% of those who responded opposed this idea.

Those who did think that a further definition was needed tended to stress the amorphous nature of the concept:

The Authority considers that the term should be defined. The case review advice is elaborate and not necessarily available to Members. The Code should carry its own answer to this question (Derbyshire County Council).

The amorphous nature of the term was also highlighted as a reason *not* to offer a definition:

No. The definition will evolve through decided cases. In general terms, people should be able to apply a common sense definition to most circumstances (NALC).

Finally there were those who simply felt that the task was beyond man's comprehension:

No matter how many words, sentences, paragraphs, chapters or volumes you care to write, you will never be able to define what a friend is. In fact, can you really determine who is or is not a friend even among your own kith and kin?

The evidence suggests, therefore, that there is not substantial support for further definition, although the Standards Board will need to assess the potential significance of these responses.

Q17. *Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?*

This proposition was supported by 68% of those who responded to this question, with very little variation among the four categories (see appendix 2). A typical response suggested:

Open and transparent local governance is essential for a healthy democracy. The current Code and the Standards Board's guidance on para. 10(2) have not sufficiently distinguished between the different types of personal interest that can arise. This has resulted in confusion and anxiety and, in some instances, the application of an absolute exemption from the rules on prejudicial interests. For the sake of certainty, clarity, and consistency, the narrowing of the personal interest test could be achieved (Dartford Borough Council).

Evidence suggests, therefore, that there is support for the personal interest test to be narrowed, although the Standards Board will need to assess the potential significance of these responses.

Q18. *Should a new category of 'public service interests' be created, relating to service on other public bodies and which is subject to different rules of conduct?*

These proposals were again generally supported by a total of 66% of those who responded, and were particularly welcomed by those authorities that perceived a problem with their "dual-hatted" members and a loss of effectiveness:

The Code has undermined the effectiveness of members and has resulted in a bureaucratic nightmare which brings the meetings of the Town Council into disrepute. The meetings have become dominated with declarations of interest (Felixstowe Town Council).

Evidence suggests, therefore, that there is support for a new 'public service interests' category to be created, although the Standards Board will need to assess the potential significance of these responses.

Q19. *If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?*

Evidence for this proposition was inconclusive – 44% of all those who responded suggested that declarations should be made, while 56% argued that declarations were unnecessary.

Q20. *Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?*

Evidence for this proposition was inconclusive, despite the fact that there was support for a narrowing of the personal interest test and a new public service interest test. 46% of the total valid responses suggested that paragraph 10(2) should be removed while 54% felt that it should be retained.

Q21. *Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?*

Evidence for this proposition was inconclusive, which was compounded by the fact that very few respondents made any distinction between charities, lobby groups, and public service organisations. In this instance, then, it is difficult to ascertain what exactly respondents were agreeing or disagreeing with, although 55% of those who responded supported the proposition and 45% opposed it.

Prejudicial interests

Q22. *Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?*

Q23. *Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?*

These two propositions provoked extremely passionate responses from both supporters and opponents. Opponents emphasised the potential scope for undue influence by members:

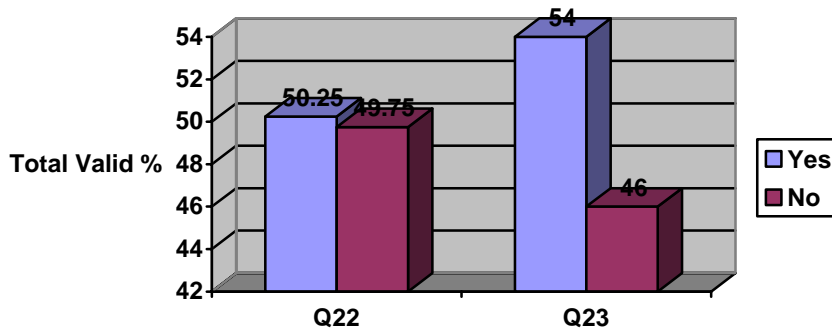
In all circumstances if a Member has a prejudicial interest he/she should leave the room. The rule needs to be kept as clear and simple as possible so the public can be satisfied that a Member cannot exert influence by being a "brooding presence"

Conversely, those who supported the propositions generally did so because they felt that members were being denied the same rights that members of the public currently enjoy:

Although it is argued that a member's presence may unfairly influence other councillors, this surely applies to any member of the public. After all, members of the public do not attend council meetings for entertainment – almost everybody in the public gallery is there precisely because they have an axe to grind

Others felt that even where the propositions were supported in principle, they would be almost impossible to carry out in practical terms. Ultimately, however, the evidence was inconclusive: 50% of those who responded felt that members with a prejudicial interest should be allowed to address the meeting before withdrawing and 54% believed that members with a prejudicial public service interest should be allowed to contribute to the debate before withdrawing from the vote. These figures are represented in figure 8.

Figure 8: Responses to Questions 22 and 23



Not only is this evidence inconclusive but it may also suggest that there will be opposition to any Standards Board decision by approximately half of the respondents.

Registration of interests

Q24. *Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?*

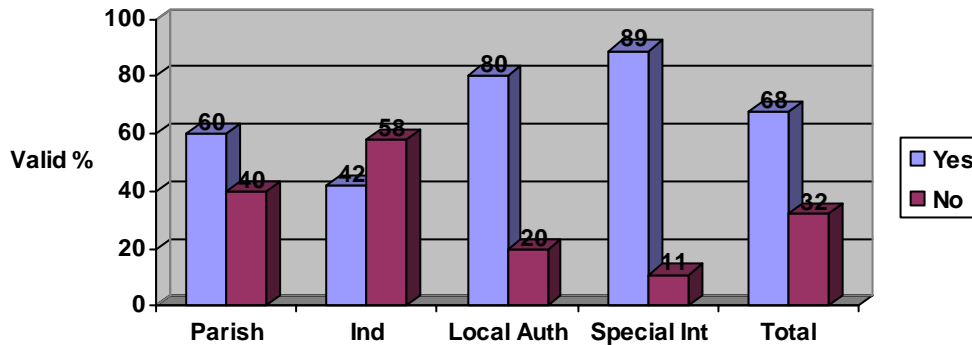
This proposition was opposed by 72% of those who responded to the question. Even those who argued that occupations should be declared regularly offered the caveat that the entry to the register must be for the Monitoring Officer's benefit only. Thus there was even more of a consensus than appear in the results, and **the evidence suggests, therefore, that there is support for the proposition that areas of sensitive employment need only be declared in a private register rather than one for public consumption.**

Q25. *Should members be required to register membership of private clubs and organisations?*

This proposition was supported by 68% of those who responded to this question, although there was some disagreement here between local authorities, special and individuals, many of whom felt that the term 'club' was too vague to be of use (see figure 9):

Many 'clubs' are simply informal gatherings that attendees have given a name to and it is difficult to see how deciding whether such a group was a 'private club' would be any simpler than deciding whether it falls within the current paragraph 15(c). Is the Board suggesting that membership of simple "hobby" clubs should be registered? (New Forest District Council)

Figure 9: Responses to Question 25



The evidence suggests, therefore, that there is support for the proposition that members should be required to register membership of private clubs and organisations, although the Standards Board will need to assess the potential significance of these responses.

Q25a. *And, if so, should it be limited to organisations within or near an authority's area?*

Evidence was much less conclusive here, with 48% of those who responded suggesting that registration of private clubs should be confined to a local area, while 52% argued that registration should have no such restrictions. However both sets of responses represented a minority of the actual responses (19% and 22% respectively) and therefore any decision based on this evidence needs to be approached with caution.

Gifts and hospitality

Q26. *Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?*

This proposition was significantly supported by 92% of those who responded and **the evidence suggests, therefore, that there is support for the proposition that the register of gifts and hospitality should be made publicly available.**

Q27. *Should members also need to declare offers of gifts and hospitality that are declined?*

Evidence was inconclusive for this proposition: 55% of those who responded felt that declined gifts should be registered, while 45% thought that this would be too burdensome a task.

Q28. *Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?*

There was significant support for this proposition from all categories, 85% in total (see appendix 2). Although only a minority of respondents offered a definition by far the most common was for declarations to be made for an accumulation of gifts over the £25 threshold in a 12 month period. **The evidence suggests, therefore, that there was support for the proposition that a series of gifts from the same source should be declared once they reach the £25 threshold.**

Q29. *Is £25 an appropriate threshold for the declaration of gifts and hospitality?*

The evidence here was inconclusive. 59% of those who responded felt that the £25 limit was fine. Some respondents felt that it should be increased to between £50 and £100. Some also argued that there should be no limit and that all gifts should be declared. In both cases these sets of respondents were in a minority of less than 15%.

General remarks

Of course, some respondents still oppose the entire project of a Code of Conduct, particularly among Parish and Town Councils:

In general parish councils find that the code is unsuitable for small rural communities where most people know each other's business and there is still an ethos of public service that finds it offensive to be told how to behave by general principles which they, and their fathers, observed automatically (Stoke St Gregory parish Council).

The Standards Board should not apply below District council level (Sellindge Parish Council).

I feel that the Code of Conduct is not working and is seriously undermining local councils and their hard working members (Anonymous Parish Councillor).

Yet such views were comparatively rare among the responses – certainly less than 5% of the total sample.

Conclusions

The following conclusions are based purely on the valid response rates: they are **not** intended to be prescriptive and are for advisory purposes only.

The evidence suggests that the following propositions have significant support

1. The general principles should be incorporated into the Code as a preamble.
2. No further principles should be added to the general principles.
3. A broad definition of disrespect should be maintained in the Code.
4. The Code should incorporate a specific provision for bullying that expands upon the ACAS definition to include one-off incidents.
5. The provision relating to disrepute should continue to apply to certain areas in a member's private life.
6. The provision relating to disrepute should continue to be a broad provision.
7. The Code should prohibit breaches of the publicity code, breaches of local protocols and misuse of resources for inappropriate political purposes.
8. The Code should not distinguish between physical and electronic resources.
9. The Code should retain the provision that requires members to report breaches by fellow members, either in its present form or a narrower form. It should not be removed altogether.
10. No further provision for intimidation is needed in the Code.
11. Sensitive employment details should only be given in a private register maintained by the Monitoring Officer and not shown to the public.
12. The register of gifts and hospitality should be made available to the public.
13. A series of gifts from the same source should be declared if they go above the £25 threshold in a 12 month period.

The following propositions were supported but did not reach the 70% level of significance. The Standards Board may feel, however, that levels of support are sufficient for a decision to be taken.

1. The Code should cover only information which is in law “exempt” or “confidential” (69% support).
2. The term ‘friend’ does not need any further definition (67% support).
3. The personal interest test should be narrowed (68% support).
4. A new category of ‘public service interests’ should be created for the Code (66% support).
5. Members should be required to register membership of private clubs and organisations (68% support)

The following propositions are inconclusive with roughly 50/50 levels of support/opposition. It is likely, therefore, that any decision regarding these propositions will meet with opposition regardless of what the actual decision is.

1. There should a public interest defence for confidential information.
2. Public service interests that are prejudicial should be declared at meetings
3. Paragraph 10(2) should be deleted from the Code.
4. Less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups.
5. Members with a prejudicial interest in a matter under discussion should be allowed to address the meeting before withdrawing.
6. Members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote.
7. Members should only register membership of private clubs in the local region.
8. The £25 limit for gifts and hospitality is appropriate.

Appendix 1 – Methodological Issues

Throughout the analysis a number of methodological issues arose that may affect the interpretation of results.

1. **Anonymity** – 60% (200) respondents in the individual category are anonymous, which means that they may in fact represent views from one of the other three groups. As a result the analysis of the individual category may well be inaccurate, although the degree to which this may be the case is impossible to determine.
2. **Replication** – it became apparent throughout the analysis that there were multiple copies of questionnaires. This was easy to determine in relation to named responses (for example a Parish Council) but impossible to ascertain in the anonymous responses. This problem was seriously compounded by the fact that some responses were sent in via both hard copy and electronically. Again this was easily detectable for named responses but untraceable for anonymous respondents. The analysis may therefore contain some duplicate answers.
3. **Yes/No Answers** – most of the questions in the questionnaire took the form of Yes/No answers. Unfortunately questions such as Q3, Q7, Q8, and Q12, all of which ask for something other than a Yes/No answer received just such a response. In these cases it is impossible to ascertain what the respondent actually means by his or her answer. For example, Q3 asks: is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement? In this case a 'Yes' response may mean support for either viewpoint, while a 'No' response is clearly just as meaningless. As a result the analysis has been forced to ignore these responses entirely.
4. **Qualitative answers** – many respondents did not actually fill in the questionnaire but instead provided a purely qualitative response. Over one-third of the Parish Council sample (110 responses), for example, is made up of qualitative answers. Although these have been analysed and taken into account they cannot be adequately reflected in terms of raw data and, as a result, the valid percentage of respondents may be considerably lower than the 900 respondents analysed in this preliminary report.
5. **Missing answers** – Many respondents did not answer the entire questionnaire. Any missing answers will inevitably widen the gap between the valid percentage of respondents and the actual number of respondents still further. In addition a number of hard copy responses had entire pages of the questionnaire missing, which means that we did not receive all of these respondents' answers.

Appendix 2 – Statistical Data

Q1. Should the ten general principles be incorporated as a preamble to the Code of Conduct?

	Yes	No
Parishes	96% (57%)	4% (2%)
Individuals	92% (75%)	8% (7%)
Local authorities	97% (89%)	3% (2%)
Special interest groups	100% (55%)	0% (0%)
Total	95% (73%)	5% (4%)

Q3. Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?

	Broad	Defined
Parishes	71% (39%)	29% (16%)
Individuals	66% (45%)	34% (23%)
Local authorities	93% (82%)	7% (7%)
Special interest groups	75% (42%)	25% (14%)
Total	76% (52%)	24% (15%)

Q4. Should the Code of Conduct include a specific section on bullying?

	Yes	No
Parishes	74% (41%)	26% (15%)
Individuals	66% (50%)	34% (26%)
Local authorities	80% (73%)	20% (18%)
Special interest groups	100% (61%)	0% (0%)
Total	80% (56%)	20% (15%)

Q4a. If so, is the ACAS definition of bullying appropriate for this?

	Yes	No
Parishes	92% (27%)	8% (2%)
Individuals	88% (32%)	12% (4%)
Local authorities	76% (47%)	24% (15%)
Special interest groups	65% (31%)	35% (17%)
Total	80% (34%)	20% (9.5%)

Q5. Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?

	Yes	No
Parishes	59% (33%)	41% (23%)
Individuals	67% (54%)	33% (26%)
Local authorities	27% (23%)	73% (63%)
Special interest groups	40% (22%)	60% (33%)
Total	48% (33%)	52% (36%)

Q6. Do you think the Code of Conduct should cover only information which is in law "exempt" or "confidential", to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?

	Yes	No
Parishes	77% (39%)	23% (11%)
Individuals	82% (62%)	18% (15%)
Local authorities	50% (41%)	50% (41%)
Special interest groups	68% (36%)	32% (17%)
Total	69% (45%)	31% (21%)

Q7. Should the provision relating to disrepute be limited to activities undertaken in a member's official capacity or should it continue to apply to certain activities in a member's private life?

	Official	Private
Parishes	36% (19%)	64% (35%)
Individuals	40% (30%)	60% (45%)
Local authorities	12% (11%)	88% (78%)
Special interest groups	8% (3%)	92% (33%)
Total	24% (16%)	76% (48%)

Q8. If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?

	Broad	Restricted
Parishes	64% (27%)	36% (15%)
Individuals	60% (32%)	40% (21%)
Local authorities	84% (69%)	16% (12%)
Special interest groups	94% (42%)	6% (3%)
Total	76% (43%)	24% (13%)

Q9. We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?

	Yes	No
Parishes	96% (51%)	4% (2%)
Individuals	93% (73%)	7% (5%)
Local authorities	77% (63%)	23% (19%)
Special interest groups	71% (33%)	29% (14%)
Total	84% (55%)	26% (10%)

Q11. Is the Code of Conduct right not to distinguish between physical and electronic resources?

	Yes	No
Parishes	93% (51%)	7% (4%)
Individuals	90% (70%)	10% (7%)
Local authorities	93% (76%)	7% (5%)
Special interest groups	100% (44%)	0% (0%)
Total	94% (60%)	6% (4%)

Q12. Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether or somehow narrowed?

	Retained	Narrowed	Removed
Parishes	45% (24%)	35% (18%)	20% (10%)
Individuals	49% (39%)	35% (28%)	16% (13%)
Local authorities	40% (35%)	44% (39%)	16% (14%)
Special interest groups	33% (17%)	56% (28%)	11% (6%)
Total	42% (29%)	42% (29%)	16% (11%)

Q14. Should there be a further provision for making false, malicious or politically motivated allegations?

	Yes	No
Parishes	78% (39%)	22% (11%)
Individuals	74% (56%)	26% (19%)
Local authorities	54% (40%)	46% (35%)
Special interest groups	39% (19%)	61% (31%)
Total	61% (39%)	39% (24%)

Q15. Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?

	Adequate	More effective
Parishes	74% (31%)	26% (11%)
Individuals	72% (35%)	28% (14%)
Local authorities	81% (64%)	19% (15%)
Special interest groups	76% (36%)	24% (11%)
Total	76% (42%)	24% (13%)

Q16. Do you think the term 'friend' requires further definition in the Code of Conduct?

	Yes	No
Parishes	39% (22%)	61% (34%)
Individuals	44% (34%)	56% (44%)
Local authorities	31% (27%)	69% (60%)
Special interest groups	17% (8%)	83% (42%)
Total	33% (23%)	67% (45%)

Q17. Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?

	Yes	No
Parishes	67% (39%)	33% (19%)
Individuals	67% (54%)	33% (26%)
Local authorities	65% (57%)	35% (31%)
Special interest groups	72% (36%)	28% (14%)
Total	68% (47%)	32% (23%)

Q18. Should a new category of 'public service interests' be created, relating to service on other public bodies and which is subject to different rules of conduct?

	Yes	No
Parishes	65% (36%)	35% (19%)
Individuals	65% (48%)	35% (26%)
Local authorities	64% (54%)	36% (31%)
Special interest groups	71% (33%)	29% (14%)
Total	66% (43%)	34% (23%)

Q19. If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?

	Yes	No
Parishes	38% (16%)	62% (27%)
Individuals	43% (25%)	57% (34%)
Local authorities	43% (30%)	57% (40%)
Special interest groups	50% (22%)	50% (22%)
Total	44% (23%)	56% (31%)

Q20. Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?

	Yes	No
Parishes	41% (21%)	59% (31%)
Individuals	40% (26%)	60% (39%)
Local authorities	47% (37%)	53% (43%)
Special interest groups	50% (25%)	50% (25%)
Total	46% (27%)	54% (35%)

Q21. Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?

	Yes	No
Parishes	54% (31%)	46% (26%)
Individuals	59% (45%)	41% (32%)
Local authorities	54% (43%)	46% (37%)
Special interest groups	55% (31%)	45% (25%)
Total	55% (38%)	45% (30%)

Q22. Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?

	Yes	No
Parishes	59% (35%)	41% (25%)
Individuals	61% (57%)	39% (36%)
Local authorities	34% (29%)	66% (56%)
Special interest groups	47% (25%)	53% (28%)
Total	50.25% (37%)	49.75% (36%)

Q23. Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?

	Yes	No
Parishes	54% (32%)	46% (27%)
Individuals	63% (53%)	37% (30%)
Local authorities	54% (40%)	46% (35%)
Special interest groups	44% (22%)	56% (28%)
Total	54% (37%)	46% (30%)

Q24. Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?

	Yes	No
Parishes	28% (16%)	72% (42%)
Individuals	37% (29%)	63% (48%)
Local authorities	18% (17%)	82% (69%)
Special interest groups	29% (17%)	71% (42%)
Total	28% (20%)	72% (50%)

Q25. Should members be required to register membership of private clubs and organisations?

	Yes	No
Parishes	60% (33%)	40% (23%)
Individuals	42% (34%)	58% (47%)
Local authorities	80% (69%)	20% (17%)
Special interest groups	89% (47%)	11% (6%)
Total	68% (46%)	32% (23%)

Q25a. And, if so, should it be limited to organisations within or near an authority's area?

	Yes	No
Parishes	60% (16%)	40% (11%)
Individuals	44% (19%)	56% (22%)
Local authorities	46% (24%)	54% (29%)
Special interest groups	40% (17%)	60% (25%)
Total	48% (19%)	52% (22%)

Q26. Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?

	Yes	No
Parishes	86% (50%)	14% (8%)
Individuals	85% (69%)	15% (13%)
Local authorities	97% (84%)	3% (3%)
Special interest groups	100% (53%)	0% (0%)
Total	92% (64%)	8% (6%)

Q27. Should members also need to declare offers of gifts and hospitality that are declined?

	Yes	No
Parishes	52% (30%)	48% (28%)
Individuals	44% (35%)	56% (46%)
Local authorities	62% (53%)	38% (32%)
Special interest groups	63% (33%)	37% (19%)
Total	55% (38%)	45% (31%)

Q28. Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?

	Yes	No
Parishes	76% (41%)	24% (13%)
Individuals	77% (57%)	23% (17%)
Local authorities	88% (73%)	12% (10%)
Special interest groups	100% (53%)	0% (0%)
Total	85% (56%)	15% (10%)

Q29. Is £25 an appropriate threshold for the declaration of gifts and hospitality?

	Yes	No
Parishes	69% (38%)	31% (17%)
Individuals	58% (46%)	42% (33%)
Local authorities	60% (52%)	40% (35%)
Special interest groups	50% (25%)	50% (25%)
Total	59% (40%)	41% (28%)

Appendix 3.

The Standards Board for England's consultation on the review of the Code of Conduct

Recommendations to Ministers

At last year's Annual Assembly of Standards Committees, the then Minister, the Rt Hon Nick Raynsford MP, invited the Standards Board for England to carry out a review of the Code of Conduct in the light of its three years' experience working with the Code. The Minister said that, whilst the fundamental principles which underpinned the Code should be maintained, the Board should see whether there were areas where the Code could be made clearer or more effective.

The Board launched its consultation in February 2005 and consultation closed formally on 17 June. Over 1200 responses were received and an independent analysis of those responses was carried out on the Board's behalf by researchers from the University of Teesside.

This report sums up the Board's conclusions on how the Code should be amended based on its own experience and the consultation responses. The Board's overriding aim was to consider how provisions could be simplified, clarified or liberalised while remaining true to the underlying principles of the Code.

General conclusions

- **The Code should be clearer, simpler and more positive.**
- **How it is enforced, nationally and locally, is as important as its content.**
- **The ten general principles set out in the Relevant Authorities (General Principles) Order 2001 should be included as a standard to be attained.**

The Government should seek ways to simplify the Code wherever possible, clarify the rules around declarations of interests, and ensure the Code is seen in a more positive light as something which promotes effective local governance in a modern setting, rather than merely being a list of prohibitions of certain types of activity. In particular, the Board recommends that the Government should have the ten general principles on the face of the Code to remind members of the positive values they should be promoting. We believe the Code should, where possible, be written as a positive rather than negative statement. And we believe a better balance needs to be struck between the proper need to protect public decision-making from inappropriate influence, recognition of the key role members play as democratically-elected advocates on behalf of their communities, and the public expectation that members should be allowed to speak up when decisions are being taken which will have a wide impact on the community. This means that the rules governing prejudicial interests need to be reconsidered.

A key theme of the consultation was the need for a consistent application of the rules across the country, and for clear advice so that all members can understand the lines which they should not cross. Simplification of the Code will help to achieve some of this but the Board is committed to working in partnership with national bodies to ensure there is clear and unambiguous guidance to help councillors do their jobs more effectively while maintaining the standards the public has a right to expect.

The key provisions of the Code with which consultees were most dissatisfied were the provisions relating to the declarations of interests and these must be seen as a priority

for the Government. The following section outline the Board's clear view on how the provisions could be improved to strike a better balance between protection of decision-making and the vital role of councillors as democratically-elected advocates on behalf of their communities.

Personal and prejudicial interests

- **There should be greater support for the councillor's role as an advocate for their community.**
- **There should be a reduction in the number of personal interests which need to be declared.**
- **There should be greater local discretion to grant dispensations.**

The Board believes the fundamental principle underpinning the need to declare interests, and in certain cases withdraw from the decision-making process, is a sound one if the public is to continue to have confidence that decisions are taken in the public interest rather than for personal gain and are seen to be done so.

However, there is a concern that the current rules are overly-restrictive (either in reality or in the way they are interpreted locally) and exclude members from discussing certain matters which their communities would expect them to be addressing or even, in certain cases, which they have been elected specifically to address. Given the changing role of most councillors, the Code needs to be seen to be supporting such local advocacy and the democratic right of a community to be represented when key matters which affect that community are under discussion.

In addition, there is a concern that too much time is spent at the start of a meeting declaring a wide range of personal interests which arise solely from the public role of the individual concerned. The Board believes the following improvements should be made:

- a) The definition of a personal interest should be restricted so that members do not have to declare an interest where it is merely something that affects them no more than a wide community.
- b) Interests which arise solely because a member serves on another public body should be treated differently from interests which arise from a member's private life. Such public service interests should only be required to be declared when a member speaks on a related subject, unless the interest is also prejudicial. It would only be prejudicial if it related directly to the public body (for example, a grant application on its behalf) or was a regulatory decision which directly affected that body or its aims. In such cases, the member should be invited to address the meeting and answer questions on behalf of the body but then withdraw before the substantive discussion so that they are not seen to be influencing the debate.
- c) Prejudicial interests where the member is advocating on behalf of an outside body, such as a charity or local pressure group, should be treated in the way outlined in b) above.

d) The Government should also give local authorities broader powers to grant exemptions to members with prejudicial interests who nevertheless are speaking on behalf of their constituents.

Register of interests and register of gifts and hospitality

- **The types of interests which need registering should remain unchanged.**

The Board believes that no major changes are needed in this area although it should be made clear that the register of gifts should be publicly available in the same way as the register of interests, and some of the exact wording of the provisions of the register of interests should be re-examined so it is clear to members what interests the Government intends should be registered.

In addition to these important provisions around registration and declaration, the Board has concluded the following points as ways in which the important provisions relating to personal behaviour can be clarified and simplified while remaining true to the Code's underlying principles.

Disrespect

- **There should be a specific provision on bullying.**

The Code should continue to address disrespect. No definition is needed as each case must be considered on its merits. However, the Board's view is that there should be an additional provision in the Code which makes it clear that bullying behaviour, in particular, should not be tolerated. The Board's experience has taught it that, in a small number of cases, there is a culture of bullying of fellow members, of officers and of the public, and a specific provision in the Code would be a strong signal of disapproval of such behaviour. Whilst legitimate challenges of poor performance will always be necessary, some of the behaviour seen by the Board has been unacceptable and the Board would welcome the Government's recognition that such behaviour has no place in modern local government.

Disclosure of confidential information

- **Members should be able to disclose information in the public interest.**
- **The Government needs to consider the impact of the Freedom of Information Act on confidentiality.**

The Code should be explicit in allowing members to disclose confidential information where it can be demonstrated that such disclosure is in the public interest. The Board does not wish the situation to arise where a member could technically fall foul of the Code by disclosing information which the authority has decided was confidential when such information would have been accessible under freedom of information provisions. The board believes some in local government continue to treat too much information as confidential and, given the Government's commitment to freedom of information, consideration needs to be given both to how the Code can address this situation and whether the local government access to information provisions need to be revisited.

Disrepute

Certain behaviour outside of official duties should continue to be regulated but it should be limited to unlawful activities.

The Board believes that the Code should continue to cover certain aspects of conduct which do not relate directly to official duties. The Board recognises the views expressed by some that only matters relating to council business should be regulated. However, some of the private activity that the Board has considered does have the potential to bring a member's authority or office into disrepute so the Board believes that this provision should continue to have some wider application, bearing in mind also that one of the ten general principles is a duty to uphold the law.

However, the Board believes the provision could be clarified to demonstrate that it is only unlawful activity committed outside of official duties which should be regulated and not activities of which certain individuals may merely disapprove.

Misuse of resources

- **Local protocols should be enforced locally where appropriate.**
- **Serious misuse of resources, particularly for political benefit, should be regulated nationally.**

Many authorities have effective local protocols governing the use of council resources. All authorities should be encouraged to adopt effective protocols, enforcement of which should broadly be left to the local level, with the Board only becoming involved where there has been alleged serious misuse of public resources.

In addition, consultation clearly showed that the main concern was about misuse of public resources for party-political advantage. The Government should therefore consider how to clarify the Code's provisions to better control such abuse, and how it should relate to the existing publicity code for local authorities.

Duty to report breaches

- **The duty to report breaches should be abolished.**
- **There should be protection against intimidation where people do complain.**
- **All involved in the process, including members themselves, need to take greater steps nationally and locally to discourage vexatious complaints.**

The provision of the Code which requires members to report breaches to the Board has been unpopular. The Board believes it had two underlying purposes – to prevent members from turning a blind eye to serious misconduct by their colleagues and to protect members who wished to come forward and report fellow members in spite of pressure to do otherwise. The Board does not believe the present provision achieves either of these aims satisfactorily, and instead has led to members using the provision as a pretext for making trivial allegations to cause mischief.

The Board considered whether the provision should be retained but limited only to allegations of serious misconduct. Whilst this was the most popular option in consultation, on reflection the Board thinks any attempt to draft such a provision would lead to subjective views on what was or was not serious. This would lead to arguments about what should and should not have been reported and would be unlikely to address the concern about trivial allegations. On balance, therefore, the Board believes this

provision can be deleted. However, the two underlying concerns the original provision sought to address need to be dealt with. Whilst the Board believes the vast majority of members would not turn a blind eye to serious misconduct, it believes that for those handful of cases where there does appear to be a serious conspiracy, existing powers in the Code can be used to deal with the issue. The Board is also concerned that members who do report serious misconduct should be protected from victimisation in the same way that employees are protected by law. One way of doing this would be to have a provision prohibiting intimidation of a complainant or witness and the Government should consider such an option.

In addition, the Board is committed to work with the Government to find further ways of reducing politically-motivated complaints. The Board is particularly concerned about examples it sees of allegations being reported in the local press, often before they have even been sent to the Board. Such activity damages the reputation of local government as a whole, and all concerned need to find better solutions to prevent such mischief.

This may be outside the scope of the Code review, but we wish to explore options with Government, representative bodies and local authorities as to how the ethical framework can be used more sensibly to the benefit of all.